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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,835	03/21/2001	Darren R. Kerr	202890US-25	2952
5073	7590	08/29/2006	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			SWEARINGEN, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/812,835

Applicant(s)

KERR ET AL.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/24/01
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/12/05 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-6 and 8-18 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6 and 8-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Krause et al. (US 5,914,953).

5. In regard to claims 1 and 14, Krause disclosed:

*identifying a first one message of a first plurality of messages, said first plurality of messages having at least one first routing treatment in common; (column 31, lines 53-67)*

*recording said first routing treatment, wherein said step of recording comprises building an entry in a flow cache; (AVT table in column 18, lines 42-54)*

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*identifying a second one message of said first plurality of messages; (column 31, lines 53-67)*

*routing said second one message responsive to said first routing treatment. (column 31, lines 53-67)*

6. In regard to claim 2, Krause disclosed:

*said first one message comprises a packet; (column 31 line 55)*

*said first plurality of messages comprises a stream of packets associated with a selected source device and a selected destination device. (column 31, line 38, line 21)*

7. In regard to claim 3, Krause disclosed:

*said stream of packets is associated with a first selected port number at said source device and a second selected port number at said destination device. (column 31, line 21-37)*

8. In regard to claim 4, Krause disclosed:

*said first plurality of messages comprises a message flow. (column 62, lines 28-51)*

9. In regard to claim 5, Krause disclosed:

*said first plurality of messages comprises an ordered sequence, and said first one message has a selected position in said ordered sequence. (column 62, lines 28-51)*

10. In regard to claim 6, Krause disclosed:

*said first plurality of messages comprises a stream of messages between a selected pair of transport access points. (column 50, line 37)*

11. In regard to claim 8, Krause disclosed:

*identifying a message of a second plurality of messages, said second plurality of messages having at least one second routing treatment in common, said second routing treatment differing from said first routing treatment. (column 31, lines 53-67)*

12. In regard to claims 9 and 15, Krause disclosed:

*access control information for said first one message. (column 31, lines 28-67)*

13. In regard to claims 10 and 17, Krause disclosed:

*a destination output port for routing said first one message. (column 57, lines 29-41)*

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14. In regard to claim 11, Krause disclosed:

*recording information about said first plurality of messages; (column 51, lines 50-67.*

*Data must be "recorded" before being transmitted.) and*

*transmitting said information to at least one selected device on said network. (column 51, lines 50-67)*

15. In regard to claims 12 and 18, Krause disclosed:

*a transmission time for an initial one message in said plurality of messages;*

*a transmission time for a most recent one message in said plurality of messages;*

*a cumulative count of bytes in said plurality of messages; or*

*a cumulative count of said one messages in said plurality of messages. (column 51, lines 10-22)*

16. In regard to claim 13, Krause disclosed:

*receiving said information at said selected device on said network; (column 51, lines 50-67)*

*recording said information in a database at said selected device; (column 51, lines 50-67)*  
*and*

*making said information available to a second device on said network. (column 51, lines 50-67)*

### **Conclusion**

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rostoker et al. US 5,802,287

Nowatzky et al. US 5,754,789

Riddle US 5,864,678

Kujoory et al. US 6,021,263

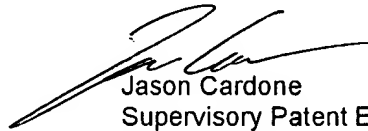
Parsons et al. US 5,422,879

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jason Cardone  
Supervisory Patent Examiner  
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